

21 April 1997

Re: NEPA Call-In Technical Inquiry 0059 - Requirements to Close Firing Range

Dear NEPA Call-In User:

This letter is in response to your April 2, 1997 request for information regarding GSA's responsibilities and requirements to remediate a closed indoor firing range in a building in Washington D.C. You stated the closed range is located in a building GSA is preparing to sell to a non-federal entity. You wanted to know what the cleanup requirements are and GSA's potential liability regarding that space after the range is remediated. You also wanted to know if a non-federal entity could require GSA to clean up the range, and if so, the standards that would pertain to such a cleanup.

According to a September 24, 1992 letter from the U.S. Environmental Protection Agency (EPA) to Mr. Jay Hair, National Wildlife Federation, "a Federal agency can be required to clean up a closed firing range under the Resource Conservation and Recovery Act (RCRA) where an imminent and substantial endangerment to health or the environment may have been created by expended shot and other debris. Therefore, Federal district courts retain the authority to compel remedial actions at shooting ranges where an imminent and substantial endangerment to health or the environment may exist." Regarding GSA's potential liability, there is no regulation or policy to prohibit a future owner from holding GSA liable for contamination or adverse health effects after the range is remediated. However, GSA could reduce its potential liability by remediating the range and documenting its clean up according to the best available technology. Additionally, a non-federal entity could require GSA to clean up the range according to RCRA Section 7002, "Citizen Suits." Regarding standards to remediate the range, there are no Federal or District of Columbia standards for this procedure except those contained in the RCRA regulations pertaining to the disposal of hazardous waste. However, for guidance on range clean up, the U.S. Department of Housing and Urban Development (HUD) "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing," and the "U.S. EPA Region VIII RCRA Program Policy for Remediation of Rifle and/or Pistol Ranges" may be helpful as they contain lead remediation guidelines. Lastly, Range Management Services of Cary, Illinois, provided a technical specification which identifies the requirements and scope of work to clean up lead residue and demolish existing range equipment in an indoor firing range. NEPA Call-In's findings and recommendations are detailed below.

NEPA Call-In contacted the EPA RCRA Hotline, (800) 424-4346, to determine the clean up requirements for indoor firing ranges. Their representative provided a letter from the EPA to Mr. Jay Hair, National Wildlife Federation, dated September 24, 1992 (enclosed). This document states remedial authority does exist under RCRA Sections 7003, "Imminent Hazard" (enclosed) where an imminent and substantial endangerment to health or the environment may have been created by expended shot and other debris. Federal district courts have the authority to require cleanup actions at closed shooting ranges where an imminent and substantial endangerment to health or the environment may exist. The letter also stated, under RCRA Section 7002 (enclosed), citizens may bring lawsuits in federal courts

requesting such relief. Such cleanups would be required to comply with RCRA requirements. Under Title 40 Code of Federal Regulations (CFR) Part 261.24, "Toxicity characteristic" (enclosed), a solid waste is a hazardous waste if it exhibits the characteristic of toxicity. Using the Toxicity Characteristic Leaching Procedure, Test Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, if the extract from a representative sample of the solid waste contains 5 milligrams per liter or more of lead then the waste is considered a hazardous waste must be treated, stored, and disposed of as such.

We then contacted Mr. Bob Harlan, Assistant Corporation Counsel for the District of Columbia, (202) 727-3400, for information pertaining to requirements to remediate a closed indoor firing range. Mr. Harlan stated the District of Columbia does not have remediation regulations pertaining to closed indoor firing ranges. NEPA-Call-In also contacted Mr. Jim Sweeney, Chief Hazardous Waste Management Branch of the District of Columbia, (202) 645-6080, to identify any special requirements for remediating indoor firing ranges. Mr. Sweeney confirmed Federal RCRA laws would regulate the remediation and stated there are no additional District of Columbia codes pertaining to this situation.

Regarding GSA's potential liability concerning the space after the range is remediated, if GSA remediates the space, documents the remediation, and disposes of the waste according to RCRA regulations, the risk of liability would be reduced. To further reduce GSA's potential liability after the range is remediated, GSA could consider placing a covenant in the deed restricting the future use of the space to such activities that would minimize the amount of time that any one person would spend in the space. For example, the deed could restrict the future use of the space to storage only. Although there are no regulatory guidelines for firing range remediation in the District of Columbia, "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing," HUD User's Document Reproduction Service, June 1995 (enclosed) is a good source for information. The guidelines contains step-by-step procedures for lead-based paint abatement to include surface cleaning, dust abatement, removal of contaminated components, waste disposal, worker safety, and documentation and recordkeeping. The guideline could easily be adapted to lead remediation in an indoor firing range.

NEPA Call-In reviewed its files and located the EPA document, "U.S. EPA Region VIII RCRA Program Policy for Remediation of Rifle and/or Pistol Ranges," (enclosed) which is final for Region VIII but draft for other EPA regions. This document contains guidelines for remediation of ranges. NEPA Call-In contacted Mr. Dave Friedman, EPA Region III (215) 566-3395, to determine if EPA Region III, which has jurisdiction over the District of Columbia, had adopted the EPA Region VIII document. Mr. Friedman stated he was not aware of Region III adopting Region VIII's remediation policy. He stated the closed range would be subject to the requirements of RCRA.

We then contacted Mr. Richard Hayes, Jr., Range Management Services, Cary, Illinois, (847) 639-0011, for a scope of work and guidelines to remediate an indoor firing range. Mr. Hayes provided "Technical Specification IFR 96-4, Decommissioning of Indoor Firing Range" (enclosed), which identifies the requirements and scope of work to clean up lead residue and demolish existing range equipment in an indoor firing range. The specification includes procedures for establishing and documenting base line and final lead levels, cleaning of all surfaces and duct work to include vacuuming using HEPA filters, removal and disposal of range equipment, and worker protection measures. Mr. Hayes noted, although this scope of work could be used for any contractor qualified to perform the service, his company could

perform the service for you.

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Sincerely,

(Original Signed)

NEPA Call-In Researcher